

PLANNING COMMISSION REPORT



MEETING DATE: April 14, 2004

ITEM NO. _____ GOAL: Neighborhoods

SUBJECT

Code Enforcement Text Amendment - 3-TA-2004

REQUEST

Request to approve a Text Amendment to amend Ordinance 455 (Zoning Ordinance) Article I., Administration and Procedures., Section 1.1400 to allow for Administrative penalties for violations of the Zoning Ordinance.

Key Items for Consideration:

- This request seeks to strengthen the ability of Code Enforcement to resolve violations of the Zoning Ordinance in an expedited manner.
- Currently, zoning ordinance violations must be resolved through Court action if voluntary compliance is not achieved.
- The Hearing Officer does not have the authority to "interpret" the Ordinance or any stipulations attached to a Zoning Case.

Related Policies, References:

- The Administrative Citation process is currently being successfully utilized for violations of the Public Nuisance and Property Maintenance Ordinance.

APPLICANT CONTACT

Raun Keagy
City of Scottsdale
480-312-2373

LOCATION

City-wide

BACKGROUND

The Administrative Citation process was put in place when the Property Maintenance Ordinance was revised in 2002. The rationale to adopt the procedure was to allow the Code Inspector the ability to issue an Administrative Citation (with automatic fines--much like a parking ticket) in lieu of sending the complaint to City Court, thus expediting the city's ability to obtain compliance.

APPLICANT'S PROPOSAL

Goal/Purpose of Request.

- Provides Code Enforcement with an additional tool to expedite the resolution of zoning ordinance violations (not to waive, relax or re-interpret zoning stipulations or ordinance provisions).
- Enables the city to expedite the enforcement of issues such as front yard parking violations, home occupation violations and violations of stipulations to Use Permits.

Key Issues.

- The Administrative Citation process does not take away the city's ability to enforce the ordinance via the Courts, but is designed to be an additional tool for enforcement

IMPACT ANALYSIS

Community Involvement.

Open House—March 31, 2004

There were eight attendees of the Open House and all were supportive of the request. Several suggestions were made regarding repeat offenders and the desire for more aggressive action. Others suggested that the amount of time for voluntary compliance be reduced (currently 7-10 days).

Community Impact.

The proposal may require additional time added to the current Hearing Officer's agenda.

This request is anticipated to have a positive impact on the community by expediting the resolution of zoning ordinance violations. Historically, the community in general has been disappointed in the amount of time it takes to resolve issues, particularly when Court action is required. This request will allow for faster resolution and better meet the community's expectations.

STAFF
RECOMMENDATION**Recommended Approach:**

Staff recommends approval.

RESPONSIBLE
DEPT(S)**Citizen & Neighborhood Resources**

Neighborhood Services

Planning and Development Services Department

Current Planning Services

City Attorney's Office

STAFF CONTACT(S)

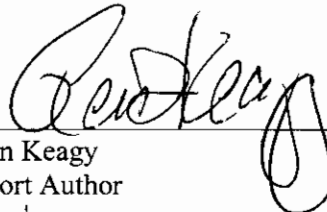
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Neighborhood Services Director


480-312-2373

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APPROVED BY



Raun Keagy
Report Author



Kurt Jones, AICP
Current Planning Director

ATTACHMENTS

1. Proposed Language—Exhibit A
2. Citizen Involvement

EXHIBIT A

Zoning Ordinance Amendment to add Administrative Enforcement D-R-A-F-T

Section 1. Sec. 1.1401 is hereby amended as follows:

Sec. 1.1401. Classification of penalty.

A. Any person, firm, corporation, partnership, or association, whether as principal, owner, agent, tenant, or otherwise, who violates, disobeys, omits, or refuses to comply with, or who resists the enforcement of any of the provisions of this ordinance is subject to a civil sanction **OR ADMINISTRATIVE REMEDY, INCLUDING AN ADMINISTRATIVE CONSENT ORDER AND AN ADMINISTRATIVE CITATION.**

B. Notwithstanding subsection A of this section,

- 1. IF A VIOLATION IS ENFORCED BY ISSUANCE OF A CITATION OR LONG FORM COMPLAINT**, a second or subsequent violation of [] this ordinance within [] **TWO YEARS OF THE DATE OF THE FIRST CITATION OR LONG FORM COMPLAINT** shall be deemed a misdemeanor.
- 2. IF A VIOLATION IS ENFORCED BY ISSUANCE OF AN ADMINISTRATIVE CITATION, A SECOND OR SUBSEQUENT VIOLATION OF THIS ORDINANCE WITHIN TWO (2) YEARS OF THE DATE OF THE FIRST CITATION SHALL BE SUBJECT TO ADDITIONAL ADMINISTRATIVE SANCTIONS, AS SET FORTH IN CHAPTER 22 OF THIS CODE.**

Section 2. Sec. 1.1402 is hereby amended as follows:

Sec. 1.1402. Penalties.

A. Upon a finding of responsible to a civil violation, the court shall impose a civil sanction not to exceed two hundred fifty dollars (\$250.00).

B. UPON DECIDING THAT THE VIOLATION OF AN ADMINISTRATIVE CITATION EXISTS, THE HEARING OFFICER SHALL IMPOSE AN ADMINISTRATIVE SANCTION AS SET FORTH IN CHAPTER 22 OF THIS CODE.

C. Upon a conviction of a misdemeanor, the court may impose a sentence in accordance with section 1-8(a) of the Scottsdale Revised Code and state law for class one misdemeanors. Probation may be imposed in accordance with the provisions of title 12, chapter 9, Arizona Revised Statutes.

Section 3. Sec. 1.1403 is hereby renamed as follows:

Sec. 1.1403. Commencement of CIVIL action.

Section 4. Sec. 1.1403.1 is hereby added as follows:

SEC. 1.1403.1. COMMENCEMENT OF ADMINISTRATIVE ACTION.

AN ADMINISTRATIVE SANCTION MAY BE ENFORCED BY ENTERING INTO AN ADMINISTRATIVE CONSENT ORDER OR BY ISSUING AN ADMINISTRATIVE CITATION. THE ADMINISTRATIVE CITATION SHALL BE ISSUED AND SERVED AS SET FORTH IN CHAPTER 22 OF THIS CODE.

Section 5. Sec. 1.1404.1 is hereby added as follows:

SEC. 1.1404.1. AUTHORITY TO ISSUE ADMINISTRATIVE CITATION.

THE CITY MANAGER OR DESIGNEE, OR A CERTIFIED POLICE OFFICER, MAY ISSUE AN ADMINISTRATIVE CITATION.

Section 6. Sec. 1.1408.1 is hereby added as follows:

SEC. 1.1408.1. DISPOSITION OF ADMINISTRATIVE CITATION.

A. THE FOLLOWING PROCEDURES FOR DISPOSITION OF AN ADMINISTRATIVE CITATION SHALL BE AS SET FORTH IN CHAPTER 22 OF THIS CODE:

- 1. DISPOSITION WITHOUT HEARING.**
- 2. SETTING ASIDE A DEFAULT DECISION.**
- 3. HEARING.**
- 4. HEARING OFFICER DECISION.**
- 5. APPEAL.**

6. LIEN FOR ENFORCEMENT OF ADMINISTRATIVE SANCTION.

B. IN ADDITION, ANY JUDGMENT IMPOSING AN ADMINISTRATIVE SANCTION MAY BE COLLECTED AS A CIVIL JUDGMENT.

Section 7. Sec. 1.1412 is hereby amended as follows:

Sec. 1.1412. Reporting of violations.

Violations shall be reported by the city to the property owner, together with a compliance order, **OR AN ADMINISTRATIVE CITATION AS SET FORTH IN CHAPTER 22 OF THIS CODE.** The order **OR CITATION** shall describe the measures required to correct the violation.

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Attachment #2. Citizen Involvement

The above attachment is on file at the City of
Scottsdale Current Planning office,
7447 E Indian School Road, Suite 105.